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10. (amended) A disc cartridge as claimed in claim 8, wherein said locking cancellation preventing member is displaced out of said inwardly directed moving path and the locking is canceled by moving said locking member.

Please add the following new claims:

4-11. A disc cartridge as claimed in claim 8, wherein said locking member includes a portion which engages the outer portion of said disc cartridge in said locking position and said inwardly directed moving path extends inwardly from said locking position towards said another position.

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12. A disc cartridge as claimed in claim 8, wherein said engaging portion of said locking member engages a recess of said outer portion of said disc cartridge, and said at least a part of said locking cancellation preventing member is spaced from said engaging portion of said locking member in a direction transverse to said inwardly directed moving path of said locking member.--

REMARKS

By the above amendment, independent claim 8 has been amended to clarify features of the present invention in light of the interview conducted October 16, 2001, with dependent claims 9 and 10 being amended in light of the amendment of

claim 8 and new dependent claims 11 and 12 being presented in order to further define features of the present invention.

As to the rejection of claims 8-10 under 35 U.S.C. §102(b) as being anticipated by Fukukawa et al (JP 9-213044), this rejection is traversed insofar as it is applicable to the present claims, and reconsideration and withdrawal of the rejection are respectfully requested.

Applicants note that the requirements for supporting the rejection under 35 U.S.C. §102 are set forth in the decision of In re Robertson, 49 USPQ 2d 1949 (Fed. Cir. 1999), wherein the court pointed out that anticipation under 35 U.S.C. §102 requires that each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. As noted by the court, if the prior art reference does not expressly set forth a particular element of the claim, that reference still may anticipate if the element is "inherent" in its disclosure. To establish inherency, the extrinsic evidence "must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill." Moreover, the court pointed out that inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.

By the present amendment, independent claim 8 has been amended to recite the feature that the locking member which includes a locking hook 6a engageable in a locking hole 7a of an outer portion of the disc cartridge 1 as shown in Figs. 2A-2C of the drawings of this application, has a moving path wherein the locking member is movable along an inwardly directed moving path from a locking position with respect to an outer portion of the disc cartridge towards another position in a direction of a central portion of the disc cartridge, which inwardly directed moving direction is illustrated by the arrows in Figs. 2B and 2C. In accordance with the present invention, at least a part of a locking cancellation preventing member represented by the member 16a as illustrated in Fig. 2A, and which is broken away so as to leave a portion 17A as shown in Fig. 2B, for example, is arranged along a portion of the inwardly directed moving path of the locking member at least between the locking position and the another position, as clearly illustrated in Figs. 2A and 2B of the drawings of this application.

As to the previous dependent claims 9 and 10 and newly added dependent claims 11 and 12, such claims recite further features of the present invention and are not disclosed or taught in the cited art as will become clear from the following discussion.

With respect to Fukukawa et al, the Examiner refers to a part of a locking cancellation preventing member 1b which prevents the locking member 5b from moving for canceling the locking is arranged on a moving path (Fig. 1 of the locking member 5). As described in the translation provided, the case of the disc cartridge has a hole 1a in which the engaging piece 5b is engaged. As clearly illustrated in Fig. 3 of this reference, the sealing piece 1b covers the outer portion of the hole 1a when the engaging piece 5b is engaged in the hole.

As such, the sealing piece 1b prevents movement of the engaging piece 5b and the locking member 5 may be considered to be movable in an inward direction from a locking position where the engaging piece 5b is arranged with respect to an outer portion of the disc cartridge and in an inwardly directed path therefrom toward another position in a direction toward a central portion of the disc cartridge. As illustrated in Fig. 4 of Fukukawa et al and described in the translation thereof, such figure like Fig. 3 shows the configuration of cartridge 1 before exchanging discs and hole 1a is filled inside by sealing piece 1b formed as a single piece with lower case 4, but three sides have appropriate clearance with the four corners of hole 1a. Fig. 5 shows the sealing piece 1b shown in Fig. 1 snapped off from the state shown in Fig. 4 using an object such as the tip of a pen or the tip of a screwdriver. Fig. 6 shows engaging piece 5b of

the locking member 5 pushed away from hole 1a from the state shown in Fig. 5, and it is apparent that in Fig. 6, the engaging piece 5b which forms part of the locking member is moved along an inwardly directed path from the locking position shown in Fig. 5, for example, toward another position in a direction toward a central portion of the disc cartridge. However, it is apparent that the sealing piece 1b of Fukukawa et al is not arranged along the inwardly directed moving path of the locking member at least between the locking position and the another position as recited in claim 8, irrespective of any strained interpretation of Fukukawa et al. It is thus apparent that at least the recited features of independent claim 8, as discussed above, are not disclosed by Fukukawa et al in the sense of 35 U.S.C. §102, and the independent and dependent claims should be considered allowable.

With respect to the previous dependent claims 9 and 10, the dependent claims recite further features of the present invention, noting that dependent claims 9 and 10, for example, recite the feature that the locking cancellation is irreversibly displaced (claim 9) or displaced (claim 10) out of the inwardly directed moving path, which displacement is out of a position between the locking and another positions as recited in independent claim 8. Additionally, it is noted that newly added dependent claim 11 recites the feature that the locking member includes a portion which engages the outer

portion of the disc cartridge in the locking position, and that the inwardly directed moving path extends inwardly from the locking position toward the second position, clearly precluding any suggestion that the sealing piece 1b of Fukukawa et al could be arranged along the inwardly directed path, as defined. Claim 12 further defines the feature that the engaging portion of the locking member engages recess of the outer portion of the disc cartridge, and that the at least a part of the locking cancellation preventing member is spaced from the engaging portion of the locking member in a direction transverse to the inwardly directed moving path of the locking member. Hereagain, such structural arrangement differs from that disclosed in Fukukawa et al. As such, applicants submit that all claims present in this application patentably distinguish over Fukukawa et al in the sense of 35 U.S.C. §102, and should be considered allowable thereover.

In view of the above amendments and remarks, applicants submit that all claims present in this application recite features which patentably distinguish over the cited art. Accordingly, applicants request favorable action in this application.

To the extent necessary, applicant's petition for an extension of time under 37 CFR 1.136. Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account

No. 01-2135 (500.37153CX6) and please credit any excess fees
to such deposit account.

Respectfully submitted,



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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

Please amend claims 8-10 as follows:

8. (twice amended) A disc cartridge for receiving a disc shaped recording medium therewithin, comprising:

said disc shaped recording medium being insertable and removable from said disc cartridge, said disc cartridge having an insertion and removal port opening and closing member; and

said disc insertion and removal port opening and closing member being moved from said disc cartridge when taking out said disc shaped recording medium,

wherein said disc cartridge has a locking member for locking said insertion and removal port opening and closing member, said locking member being movable along an inwardly directed moving path from a locking position with respect to an outer portion of said disc cartridge towards another position in a direction of a central portion of said disc cartridge, and

wherein at least a part of a locking cancellation preventing member which prevents said locking member from moving for canceling the locking is arranged [on a] along a portion of said inwardly directed moving path for said locking member [along which said locking member moves in an inward direction of said disc cartridge with respect to an outer portion of said disc cartridge so as to cancel the locking] at

least between said locking position and said another position.

9. (amended) A disc cartridge as claimed in claim 8, wherein said locking cancellation preventing member is irreversibly displaced out of said inwardly directed moving path and the locking is canceled by moving said locking member.

10. (amended) A disc cartridge as claimed in claim 8, wherein said locking cancellation preventing member is displaced out of said inwardly directed moving path and the locking is canceled by moving said locking member.

Please add the following new claims:

--11. A disc cartridge as claimed in claim 8, wherein said locking member includes a portion which engages the outer portion of said disc cartridge in said locking position and said inwardly directed moving path extends inwardly from said locking position towards said another position.

12. A disc cartridge as claimed in claim 8, wherein said engaging portion of said locking member engages a recess of said outer portion of said disc cartridge, and said at least a part of said locking cancellation preventing member is spaced from said engaging portion of said locking member in a direction transverse to said inwardly directed moving path of said locking member.--